

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff

V.

ANTHONY PELAYO,

Defendant.

CASE NO. CR18-217RSM

**ORDER DENYING SECOND MOTION
FOR RECONSIDERATION**

This matter comes before the Court on the Second Motion for Reconsideration filed by Defendant Anthony Pelayo. Dkt. #409. The Court has determined that a response is unnecessary. Mr. Pelayo moves again for reconsideration of the Court's Order denying his Motion for Review of Detention Order, Dkt. #381. In that Order, the Court stated:

There is a presumption of detention in this case because Defendant is facing a ten-year mandatory minimum term of imprisonment. **Even if Defendants' new COVID-19 information was not speculative**, the Court finds that Defendant's age and lack of any underlying medical conditions would not make him particularly vulnerable or otherwise part of a high-risk group. This is a significant point. Although the parties can debate whether or not the new coronavirus is or will be spreading at the FDC, the Court is not convinced that this constitutes a significant enough risk to this Defendant's health to warrant release given the initial bases for Judge Tsuchida to order detention. See Dkt. #151.

Dkt. #381 at 3 (emphasis added).

1 Motions for reconsideration are disfavored. CrR 12(b)(13). The court will ordinarily
2 deny such motions in the absence of a showing of manifest error in the prior ruling or a showing
3 of new facts or legal authority which could not have been brought to its attention earlier with
4 reasonable diligence. *Id.* No response to a motion for reconsideration shall be filed unless
5 requested by the court. *Id.*

6 Mr. Pelayo cites to new evidence in the form of an email stating that a member of the
7 FDC staff has tested positive for COVID-19 and is self-quarantining at home. Dkt. #409 at 2
8 (citing Dkt #410). No further details are provided. Mr. Pelayo reiterates his observations of the
9 protective measures at the FDC previously submitted to the Court.

10 Mr. Pelayo's Motion does nothing to demonstrate manifest error in the Court's prior
11 order. Instead he presents new facts. The Court concludes that this evidence of COVID-19 at
12 the FDC does not change the Court's analysis above. Mr. Pelayo has presented less speculative
13 COVID-19 information, but the Court continues to find "that Defendant's age and lack of any
14 underlying medical conditions would not make him particularly vulnerable or otherwise part of
15 a high-risk group," and "the Court is [still] not convinced that this constitutes a significant enough
16 risk to this Defendant's health to warrant release given the initial bases for Judge Tsuchida to
17 order detention." The Court notes that Mr. Pelayo has not demonstrated deliberate indifference
18 to the health of the detainees at the FDC.

19 Having reviewed the briefing, along with the remainder of the record, the Court hereby
20 finds and ORDERS that the Second Motion for Reconsideration by Defendant Anthony Pelayo,
21 Dkt. #409, is DENIED.

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2 DATED this 30th day of July, 2020.
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RICARDO S. MARTINEZ
CHIEF UNITED STATES DISTRICT JUDGE